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10/087,292	03/01/2002	Kristopher W. Gerulski	29252/3334	3108

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EXAMINER

ALIE, GHASSEM

ART UNIT PAPER NUMBER

3724

DATE MAILED: 07/24/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

10/087,292

Applicant(s)

GERULSKI, KRISTOPHER W.

Examiner

Ghassem Alie

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 5, 11-26, and 28-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: \_\_\_\_

***Election/Restrictions***

1. Applicant's election of Invention I and species I in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 5, 20-26, and 28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

Claims 11-19, 29, and 30 are also withdrawn from further consideration because these claims are drawn to non-elected species II; even though, these claims are stated by applicant to be part of the elected species I.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4, 6-8, 10, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Perrin (4,474,318). Regarding claim 1, Perrin discloses a warp dispenser 10 including a trunk 14, 16, 18 defined by the rear wall 14, bottom wall 16, and front wall 18 and a lid 12 hinged to the trunk 14, 16, 18. Perrin also discloses a cutter bar 18 having a base (defined by the main body of the saw-toothed metal 28) and a plurality of teeth extend from the base. Perrin also discloses that each tooth terminating on first and second sides at a valley

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proximate the base, the base is attached to the trunk 14, 16, 18, and each valley is inherently spaced away from the trunk 14, 16, 18 to which the base is attached by a predetermined registration zone. Each valley of the cutter bar 28 is spaced away from the bottom wall 16 of the trunk 14, 16, 18 by a predetermined registration zone. The registration zone is defined in the specification by the applicant as the distance between the valleys and the bottom edge of the tear flap. The valleys of the cutter bar 28 are spaced by a predetermined distance from the bottom edge of the tear flap 25 as shown in Figs. 7 and 8. See Figs. 1-8 and col. 3, lines 31-68 and col.4, lines 1-61.

Regarding claim 4, Perrin discloses everything noted above including that the cutter bar 28 is attached to the bottom of the surface of the trunk 14, 16, 18. See Figs. 1 and 6 in Perrin.

Regarding claim 6, Perrin discloses everything noted above including that the front surface of the lid 18 includes means for reinforcing the front surface of the lid 18. The reinforcement panel 40 is defined as the means for reinforcing the front surface of the lid 18. See Fig. 1 in Perrin.

Regarding claim 7, Perrin discloses everything noted above including that the trunk 14, 16, 18 and the lid 12 are formed from a unitary piece of paperboard and the front surface of the lid 18 includes first and second pieces of the paperboard as shown in Fig. 1. The front surface of the lid 18 includes the reinforcement panel 40, which is attached to it.

Regarding claim 8, Perrin discloses everything noted above including that the trunk 14, 16, 18 has a base wall 16, a back wall 14, a front wall 18, and first and second end walls 20, 22. Perrin also discloses that the lid 12 is hinged to the trunk 14, 16, 18 and has a front

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wall 32, a top wall 12, and first and second end walls 64, 66 and a tear strip 25 removably attached to the lid front wall 32 at a score line 27. See Fig. 1 in Perrin.

Regarding claim 10, Perrin discloses everything noted above including that the reinforcing member 40 is integral with the lid front wall 18. See Figs. 1-3 in Perrin.

Regarding claim 27, Perrin discloses everything noted above including that the means for reinforcing 40 the dispenser 10 proximate the cutter bar 28. See Fig. 1 in Perrin.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all Obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negative by the manner in which the invention was made.

6. Claims 2, 3, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perrin. Regarding claims 2, 3, 9, Perrin teaches everything noted above, but Perrin does not expressly teach that the registration zone has a width of approximately 0.03125 inches that is within a range of 0.01 to 0.05 inches. However, it appears that width of the registration zone defined by the distance of valley of the cutter bar 28 from the bottom edge of the tear flap 25 is approximately 0.03125 inches within the range of 0.01 to 0.05. See Figs. 6-8 in Perrin. The width of the registration zone in Fig. 6 in Perrin appears to be the same as the width of the registration zone in Fig. 2 of the applicant's drawings.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Shiffler et al. (6,564,942) disclose a film dispenser having a cutter bar attached to the front wall of the lid. (Claims 11-19 and 28-30)

Roccaforte (5,141,108) discloses a film dispenser with double-layered reinforcing means. (Claims 11-19 and 28-30)

Pollard et al. (5,839,634) discloses a blade for severing sheet materials. (Claims 16 and 17)

Struble (3,933,288) discloses a dispensing carton with cutting edge. (Claims 1-30)

Krall (4,951,858) discloses a wrap dispenser. (Claims 1-30)

Lapp (5,121,839) discloses a dispensing carton with a front roll-engaging tab. (Claims 1-30)

Vander Lugt (4,648,536) discloses a carton for dispensing sheet material in roll form. (Claims 1-30)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (703) 305-4981. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703) 305-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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GA/ga

July 15, 2003

  
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Group 3700